

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALTONIO STEEPLES,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:12CV520 CDP
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter was set for an evidentiary hearing today on Ground 1 of petitioner's § 2255 motion. However, in lieu of a hearing the parties agreed that the motion pursuant to 28 U.S.C. § 2255 should be granted on Ground 1 only, that the matter should proceed to resentencing on the underlying criminal charge for term of imprisonment of 97 months, and that petitioner consented to resentencing before me. Petitioner confirmed this agreement today on the record, including his agreement to waive his right to appeal his resentencing. Respondent, while denying the underlying merits of Ground 1 of the petition, also confirmed its consent to this agreement on the record. Therefore, for the reasons stated on the record during today's hearing, I will grant Ground 1 of petitioner's habeas petition pursuant to the agreement of the parties and resentence petitioner.

However, as Steeples has not made a substantial showing of the denial of a federal constitutional right, I will not issue a certificate of appealability on any claims raised in his § 2255 motion, including Ground 1 and those previously denied in my October 24, 2013 Memorandum and Order. See Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)) (substantial showing must be debatable among

reasonable jurists, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings). I am grateful to Kevin Curran for accepting the appointment of this case, and I thank him for his service in this matter. Because this matter is concluded, I will terminate his appointed representation in this case.

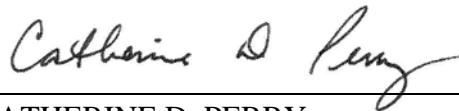
Accordingly,

IT IS HEREBY ORDERED that Ground 1 of the motion of Altonio Steeples to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 [#1] is granted.

IT IS FURTHER ORDERED that this Court will not issue a certificate of appealability on any claims raised in the § 2255 motion, as Steeples has not made a substantial showing of the denial of a federal constitutional right.

IT IS FURTHER ORDERED that Kevin Curran's appointed representation of Altonio Steeples is concluded, and Kevin Curran has no further obligations in this matter.

IT IS FURTHER ORDERED that a final Judgment will be entered today in this case and an amended Judgment in accordance with this Memorandum and Order will be entered in the criminal case United States v. Altonio Steeples, Case Number 4:11CR97 CDP.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 16th day of January, 2014.